

SENATE BILL REPORT

ESHB 3148

As Reported By Senate Committee On:
Judiciary, February 29, 2008

Title: An act relating to firearm licenses for persons from different countries.

Brief Description: Concerning firearm licenses for persons from other countries.

Sponsors: House Committee on Judiciary (originally sponsored by Representative Moeller).

Brief History: Passed House: 2/19/08, 95-0.

Committee Activity: Judiciary: 2/27/08, 2/29/08 [DP].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Carrell, Hargrove, McDermott, Roach and Weinstein.

Staff: Robert Kay (786-7405)

Background: Existing Alien Firearm License Statute. It is a class C felony for any person who is not a citizen of the United States to carry or possess any firearm without having obtained an alien firearm license from the Director of the Department of Licensing (Director). In order to be eligible, an alien must provide the Director with a certified copy of the alien's criminal history in the alien's country, and an attestation from the consul domiciled in Washington representing the country of the alien that the alien is a responsible person.

If the alien has been a resident of Washington for at least two years and is from a country without a consul domiciled within Washington, or the consul has failed to provide, within 90 days, the required documentation, the Director may issue an alien firearm license without the alien's criminal history in the alien's country or the consul's attestation.

Before issuing the license, the Director must ask local law enforcement agencies to conduct a background and fingerprint check to determine the alien's eligibility to own, possess, or control a firearm. This check must be conducted within 30 days of the request. If the alien does not have a valid Washington driver's license or identification card, the check must be conducted within 60 days of the request. The alien firearm license is good for five years.

These requirements do not apply to Canadian citizens who reside in a province which has an enactment or public policy providing substantially similar privileges to Washington residents

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who carry or possess weapons for the purpose of using them in hunting or competing in organized contests where rifles, pistols, or shotguns are used.

Summary of Bill: Nonimmigrant Alien – Residing in Washington. It is a class C felony for a nonimmigrant alien residing in Washington to carry or possess any firearm without having an alien firearm license. Any nonimmigrant alien residing in Washington may apply to the sheriff's office of the county in which the alien resides for an alien firearm license. The license will be valid for hunting and sport shooting, and it expires two years after issuance or until the person permanently leaves the state.

The county sheriff must within 60 days after the filing of an application of a nonimmigrant alien residing in Washington, issue an alien firearm license. Before issuing the license: (1) the applicant must produce a passport and visa as evidence of legal residence in the United States, and must submit one complete set of fingerprints with the application; and (2) the issuing county sheriff must cause a background check to be conducted in the databases of the National Crime Information Network, the Washington State Patrol, and Department of Social and Health Services, and other agencies or resources as appropriate.

Nonimmigrant Alien - Not Residing in Washington. It is a class C felony for any nonimmigrant alien not residing in Washington to carry or possess a firearm in Washington unless that person possesses a valid passport and visa (a Canadian citizen need only to possess valid documentation as required for entry into the United States); an approved U.S. Department of Justice ATF-6 NIA application and permit; and either a valid hunting license or an invitation to participate in a trade show or sport shooting event.

The existing alien firearm licensing statute is repealed.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Engrossed Substitute Bill: PRO: This bill changes the procedures by which persons, who are non-immigrant aliens temporarily in the United States on a visa, with different requirements established for these aliens depending on whether they are residing in Washington or not. The issue that created the need for this bill arose when the FBI issued new regulations providing that the FBI would only respond to requests from state government agencies for criminal background checks on individuals if the FBI considered the requesting state agency to be a law enforcement agency. Under existing law in Washington, the Department of Licensing (DOL) is the state agency that issues alien firearm licenses. Under its new regulations, the FBI no longer considers DOL to be a law enforcement agency, and thus, will not conduct criminal background checks at the request of DOL. DOL will not issue new alien firearm licenses, or renew existing licenses, without conducting such a background check with the necessary assistance of the FBI. Thus, DOL will no longer issue firearm licenses to aliens in Washington, nor will it renew existing licenses.

This bill provides that the state agency issuing alien firearm licenses must be the county sheriff's department, a law enforcement agency. Under the provisions of the bill, the FBI will conduct a background check which researches the alien applicant's criminal background in the alien's country of origin. In addition, when the alien entered this country, a criminal background check regarding the alien's criminal history in the country of origin will already have been conducted.

Persons Testifying: PRO: Representative Jim Moeller, prime sponsor.